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*In the Rolls Court.*

## DUFAUR vs. THE PROFESSIONAL LIFE ASSURANCE COMPANY.

1. Where the life policy contained a provision that should the assured commit suicide the policy should be void, and the assured died by his own hand, being of unsound mind as found by the coroner's jury; held that the state of mind of the party committing suicide was not material, and that "suicide" could not be distinguished from "dying by his own hand;" which has been held to be within a like proviso. Per Master of the Rolls.
2. Where the assured had deposited the policy with a creditor as security for a debt due and for advances, without notice of the deposit to the office, and the assignee had continued to pay the accruing premiums; held that it was a valid deposit and assignment, and that the assignee, who was also administrator, was entitled to recover the advances made for the assured's benefit.

By a policy of assurance dated in March, 1851, granted by the defendants, the life of James Laird, a surgeon in the navy, then of Bermuda, was insured in the sum of 300*l.* on the proposal of the insured.

The policy contained the following proviso, that "in case the assured shall, during the continuance of this policy, go beyond the limits of Europe, or die on the high seas, except in time of peace, in passing or repassing by land or sea, from one part of Europe to another, or to or from Canada, Nova Scotia, New Brunswick, Australasia, Bermuda, Madeira, Cape of Good Hope, or Prince Edward's Island, or to and from any port or ports of Great Britain inclusive, or being or becoming a military or naval man, shall enter into actual service without the previous license of the directors, or shall commit suicide, or die by duelling, or the hands of justice, (when the policy shall be canceled by the return of the premiums except the policy shall have been legally assigned,) this policy shall be void, and all moneys paid in respect thereof shall be forfeited to the company,"

On the 2d April, 1853, Laird being indebted to the plaintiff, who was his navy agent, in a considerable amount, deposited the policy, with him as security for the balance of his account with the plaintiff then due, or which might thereafter be due to him. No notice of the deposit was given to the office.

From that time, until the death of Laird, the policy remained in

the hands of the plaintiff, who paid all the premiums due on the policy. He received the pay of Laird, and from time to time made advances to him, and at his death, in 1857, there was due to the plaintiff, on the balance of the account between them, 172*l.* 8*s.* 7*d.*

Laird died by his own hand, being of unsound mind, as found by a coroner's jury.

The plaintiff took out letters of administration to the estate of Laird, and applied to the company to pay the whole amount of the policy, on the ground that Laird having put an end to his existence whilst insane, that was not committing suicide within the meaning of the proviso; or at least the sum due to him under the security of the deposit to him. The company declined to do more than return the premiums, contending that the policy was made void by Laird having committed suicide, and there having been no legal assignment of the policy to the plaintiff.

This bill was filed by Dufaur, praying payment of the amount payable on the policy; or an account of all moneys due to him on the security of the deposit of the policy by Laird, and payment by the company.

Palmer, Q. C., and Godfrey for the plaintiff, contended that the defendants were bound to pay the whole policy, on the ground that Laird had not committed suicide within the meaning of the proviso in the policy, *Dormay vs. Borrodaile*, 10 Beav. 335, 342; *Cook vs. Black*, 1 Hare, 390; *Amicable Life Assurance Society vs. Boland*, 4 Bligh, N. S. 194; *Borrodaile vs. Hunter*, 5 Man. & Gr. 639; or that the plaintiff was at least entitled to recover the amount due to him on the deposit.

The Master of the Rolls said he was of opinion that Laird had committed suicide within the proviso. The last case cited decided that the state of mind of the party committing suicide was not material. He thought that "suicide" could not be distinguished from "dying by his own hand."

W. W. Cooper, for the defendants, on the second point, contended that the petitioner had no claim on the company, as the policy had not been legally assigned.

THE MASTER OF THE ROLLS.—The question which remains to be

considered is whether this policy has been legally assigned. That depends upon the meaning to be given to the word "legally," which must be taken most strongly against the office, as it is inserted by them for their protection. Now, at law, a policy cannot be assigned except to the Crown; but it is clear that this is not what is intended by the limitation. The word cannot be used here in its technical sense, as opposed to equitable; the word "legal" is generally employed as equivalent to valid, in which sense the courts of law and equity will recognize its meaning. There is a technical sense in which we use the word "legal," that is when we speak of a legal right as opposed to an equitable one; but that is not its meaning in common parlance. I am satisfied that whoever prepared this proviso did not use the word in its technical sense, but meant that the policy must be validly and effectually assigned. Whether this has been done in this case, is a question of evidence. And, upon the evidence, I think it would be difficult to deny that there was a valid deposit of the policy with the plaintiff by the insured to secure advances made for his benefit, and the measure of relief to which the plaintiff is entitled, is the amount due to him in respect of such advances, not exceeding the amount of the policy. An account must be taken of what is due to the plaintiff, unless the account can be settled by arrangement.

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*In the Court of Queen's Bench.*

JACKSON AND ANOTHER vs. FORSTER.

1. A life policy contained the following condition: "This policy will be void if the life assured die by his own hands, the hands of justice, by duelling, or by suicide; but if any third party have acquired a bona fide interest therein by assignment, or by legal or equitable lien for a valuable consideration, or as security for money, the assurance thereby effected shall nevertheless, to the extent of such interest, be valid and of full effect." On the 9th July the assured became bankrupt according to the laws of Valparaiso, and his property then vested in the escribano, or officer of the court, who took possession, and on the 15th July assignees were